

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:21-MC-00180-FDW-DSC**

**IN RE SUBPEONA DUCES TECUM TO)
NON-PARTY LUCAS T. BAKER)
)
_____)**

ORDER

THIS MATTER is before the Court on “Non-Party Lucas T. Baker’s Motion to Quash or Modify Subpoena ... and Motion to Transfer Subpoena-Related Motion To Issuing Court” (document # 1) filed September 7, 2021 and “Defendants’ Response ...” (document #5) filed September 21, 2021.

The matter was referred to the undersigned on October 5, 2021.

This Motion concerns a Subpoena Duces Tecum issued from the United States District Court for the Middle District of North Carolina in Wiles v. Black & Boone P.A. et al., No. 1:21-cv-00084. The Subpoena was sought by counsel for Defendants in the underlying action. It commands non-party Lucas Baker to appear for a deposition in Charlotte and produce certain documents for inspection and copying.

Subpoenas issued to a non-party are governed by Federal Rule of Civil Procedure 45. Fed. R. Civ. P. 45; see Fed. R. Civ. P. 34(c) (“As provided in Rule 45, a nonparty may be compelled to produce documents and tangible things or to permit an inspection.”). Although a subpoena must be issued by the court where the underlying action is pending under Rule 45(a)(2), challenges to the subpoena are heard by the district court where compliance with the subpoena is sought. In re Bayer Cropscience, No. 5:16-MC-10-RJ, 2016 WL 7429201, at *2 (E.D.N.C. June 14, 2016). The court where compliance is sought may transfer a motion to the issuing court if the person subject to the subpoena consents or if the court finds that there are “exceptional circumstances” warranting

transfer. Fed. R. Civ. P. 45(f); Ellis v. Arrowood Indem. Co., No. 2:14-MC-00146, 2014 WL 4365273, at *2 (S.D. W. Va. Sept. 2, 2014).

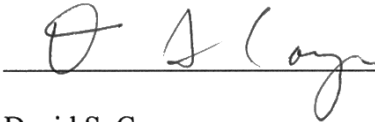
Baker requests that the Motion to Quash be transferred to the Middle District and Defendants have no objection to transfer. Document #5 at 3.

IT IS THEREFORE IT IS ORDERED that:

1. “Non-Party Lucas T. Baker’s Motion to Quash or Modify Subpoena ...” (document #1) is **TRANSFERRED** to the United States District Court for the Middle District of North Carolina for consideration in the underlying action.
2. The Clerk is directed to send copies of this Order to counsel for the parties and to the Honorable Frank D. Whitney.

SO ORDERED.

Signed: October 5, 2021



David S. Cayer
United States Magistrate Judge

